

ESTTA Tracking number: **ESTTA63312**

Filing date: **01/24/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Acorn Alegria Winery
Granted to Date of previous extension	01/25/2006
Address	12040 Old Redwood Highway Healdsburg, CA 95448 UNITED STATES
Attorney information	GREGORY N. OWEN OWEN, WICKERSHAM & ERICKSON, P.C. 455 MARKET STREET, 19TH FLOOR SAN FRANCISCO, CA 94105 UNITED STATES gowen@owe.com Phone:415-882-3200

### Applicant Information

Application No	78497110	Publication date	09/27/2005
Opposition Filing Date	01/24/2006	Opposition Period Ends	01/25/2006
Applicant	Sweely Holdings, LLC 179 Acorn Hill Drive Madison, VA 22727 UNITED STATES		

### Goods/Services Affected by Opposition

Class 033. All goods and sevicees in the class are opposed, namely: Wine and potable spirits
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### Applicant Information

Application No	78497114	Publication date	09/27/2005
Opposition Filing Date	01/24/2006	Opposition Period Ends	
Applicant	Sweely Holdings, LLC 179 Acorn Hill Drive Madison, VA 22727 UNITED STATES		

### Goods/Services Affected by Opposition

Class 033. All goods and sevicees in the class are opposed, namely: Wines and potable spirts
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## Applicant Information

Application No	78497107	Publication date	09/27/2005
Opposition Filing Date	01/24/2006	Opposition Period Ends	
Applicant	Sweely Holdings, LLC 179 Acorn Hill Drive Madison, VA 22727 UNITED STATES		

## Goods/Services Affected by Opposition

Class 033. All goods and sevicees in the class are opposed, namely: Wines and potable spirits
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Attachments	Consolidated NoticeOpposition.pdf ( 3 pages )
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Signature	/Gregory N. Owen/
Name	GREGORY N. OWEN
Date	01/24/2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Applications

Applicant:	Sweely Holdings, LLC
Serial Nos.:	78/497,107
	78/497,110
	78/497,114
Filed:	October 8, 2004
Marks:	ACORN HILL WINERY
	ACORN HILL ESTATE
	ACORN HILL VINEYARDS
Published:	September 27, 2005 at TM 1635

Acorn Alegria Winery,	)	
dba Acorn Winery	)	
	)	
Opposer,	)	<b>CONSOLIDATED NOTICE OF OPPOSITION</b>
	)	
v.	)	
	)	
Sweely Holdings, LLC	)	
	)	
Applicant.	)	
_____	)	

Acorn Alegria Winery, a California corporation doing business as Acorn Winery, with a mailing address of P.O. Box 2061, Healdsburg, CA 95448-2061 ("Opposer"), believes it will be damaged by registration of the mark ACORN HILL WINERY, Serial No. 78/497,107, ACORN HILL ESTATE, Serial No. 78/497,110, and ACORN HILL VINEYARD, Serial No. 78/497,114 in Class 33, filed October 8, 2004 by Sweely Holdings, LLC ("Applicant") which are published

at TM 1635 of the *Official Gazette* of September 27, 2005, and hereby opposes the applications.

As grounds in support of its opposition, Opposer asserts as follows:

1. Applicant has filed a trademark application for the marks ACORN HILL WINERY, ACORN HILL ESTATE, and ACORN HILL VINEYARD for wines and potable spirits in International Class 33. Opposer objects to registration of the marks.

2. Opposer, since long prior to any filing date or date of first use upon which Applicant can rely, adopted and has continuously used the mark ACORN in association with wine in International Class 33. Opposer's constructive date of first use of the mark is January 24, 1994, the date of filing its federal application pursuant to Section 1(b) of the Trademark Act. Actual use of its ACORN trademark began as early as June 1996.

3. Opposer is the owner of incontestable federal trademark registration No. 2,061,738 for the trademark ACORN dated May 13, 1997 for wine in International Class 33.

4. Opposer, since long prior to any filing date or date of first use upon which Applicant can rely, adopted and has continuously used the trade name ACORN WINERY in association with the production and sale of wine.

5. As a result of Opposer's advertisement, promotion, offering for sale and sale of wines using the ACORN trademark and ACORN WINERY trade name, the mark and name have become well and favorably known throughout the United States. Opposer has developed valuable goodwill with respect to its ACORN trademark and ACORN WINERY trade name.

6. Applicant's marks so resemble Opposer's previously used ACORN trademark and ACORN WINERY trade name as to be likely, when applied to Applicant's Class 33 goods set forth in the application, to cause confusion, mistake or deception within the meaning of Section

2(d) of the Trademark Act. Further, if Applicant is granted the registrations herein opposed, it would thereby obtain at least prima facie exclusive right to use its marks. Such registrations would be a source of damage and injury to Opposer.

For the reasons set forth herein, Opposer believes that the registration of the marks sought to be registered by Applicant in Class 33 will injure Opposer.

WHEREFORE, Opposer prays that the consolidated opposition be sustained and that registration be refused.

Respectfully submitted,

OWEN, WICKERSHAM & ERICKSON, P.C.

Date: January 24, 2006

By:           /Gregory N. Owen/            
Gregory N. Owen

Attorney for Opposer  
Acorn Alegria Winery dba Acorn Winery

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